

Pt. 383a

32 CFR Ch. I (7–1–10 Edition)

a. Manage the approval and appointment process for disbursing and certifying officials pursuant to 31 U.S.C. 3321 and 3325.

b. Make determinations and recommendations with respect to the granting of relief to disbursing officials pursuant to the authority contained in 31 U.S.C. 3527.

c. Approve requests to hold cash at personal risk for authorized purposes, including imprest funds, and to redelegate such authority as appropriate in the administration and control of DoD funds, consistent with the Treasury Financial Manual (TFM) and under the authority of 31 U.S.C. 3321 and 3342.

d. Approve DoD Component disbursing regulations developed to implement the TFM and to grant waivers when delegated by the Secretary of the Treasury to heads of Executive Departments and Agencies.

The Director, DFAS may, in writing, redelegate these authorities as appropriate, except as otherwise specifically indicated above or as otherwise provided by law or regulation.

**PART 383a—DEFENSE
COMMISSARY AGENCY (DeCA)**

Sec.

383a.1 Purpose.

383a.2 Applicability.

383a.3 Mission.

383a.4 Organization.

383a.5 Responsibilities and functions.

383a.6 Relationships.

383a.7 Authority.

383a.8 Administration.

APPENDIX TO PART 383a—DELEGATIONS OF AUTHORITY

AUTHORITY: 10 U.S.C. 136.

SOURCE: 55 FR 49279, Nov. 27, 1990, unless otherwise noted.

§ 383a.1 Purpose.

Pursuant to the authority vested in the Secretary of Defense under title 10, United States Code, this part establishes the Defense Commissary Agency (DeCA) and the Defense Commissary Board (DCB), with responsibilities, functions, and authorities as prescribed herein.

§ 383a.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments; the Chairman, Joint Chiefs of Staff and Joint Staff; the Unified and Specified Commands; the Inspector General of the Department of Defense (IG, DoD); the Defense Agencies; and the DoD Field Activities

(hereafter referred to collectively as “DoD Components”). The term “Military Services,” as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

§ 383a.3 Mission.

(a) The mission of the DeCA is to:

(1) Provide an efficient and effective worldwide system of commissaries for the resale of groceries and household supplies at the lowest practical price (consistent with quality) to members of the Military Services, their families, and other authorized patrons, while maintaining high standards for quality, facilities, products, and service.

(2) Provide a peacetime training environment for food supply logisticians needed in wartime and, as circumstances dictate, troop issue subsistence support to military dining facilities consistent with Service needs.

(b) The mission of the DCB is to serve as a forum for the discussion of issues about the commissary services provided by the DeCA and to make related policy recommendations to the Assistant Secretary of Defense (Production and Logistics) (ASD(P&L)).

§ 383a.4 Organization.

(a) The DeCA is established as an Agency of the Department of Defense under the direction, authority, and control of the ASD(P&L). It shall consist of a Director of such subordinate organizational elements as are established by the Director.

(b) The DCB is established as a committee reporting to the ASD (P&L). Its membership shall consist of the following:

(1) The Director, DeCA, who shall serve as Chair.

(2) A representative of the Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)).

(3) A representative of the Chairman, Joint Chiefs of Staff (CJCS).

(4) One military officer and one enlisted representative from each of the Military Services appointed by the Secretaries of the Military Departments.

(5) The Director, DeCA, may invite other representatives to attend DCB meetings, as appropriate.

Office of the Secretary of Defense

§ 383a.5

(c) The Director shall designate an Executive Secretary for the Board.

[55 FR 49279, Nov. 27, 1990, as amended at 63 FR 33248, June 18, 1998]

§ 383a.5 Responsibilities and functions.

(a) The Director, Defense Commissary Agency (DeCA), shall:

(1) Organize, direct, and manage the DeCA and all assigned resources; procure assigned items; and administer, supervise, and control all programs and activities assigned to the DeCA.

(2) Plan, program, budget, design, manage, and ensure the execution of the commissary facilities' construction, modification, and repair programs.

(3) Provide and operate facilities under standards consistent with those used for commercial food stores.

(4) Develop and administer plans and programs to provide peacetime training for military personnel, as appropriate.

(5) Develop and administer plans and programs to provide troop issue subsistence support to appropriate dining facilities, tactical field exchanges for deployed mission support, and management of subsistence war readiness materiel in peacetime and wartime, as required.

(6) Provide advice to the ASD(P&L) on DoD policies about the operation of commissaries and related matters.

(7) Plan and direct use of commissary stocks to support mobilization, as required.

(8) Establish and administer a civilian career management program to include referral services and development programs for commissary management personnel.

(9) Perform such other functions as the ASD(P&L) may direct.

(b) The Defense Commissary Board (DCB) shall meet periodically, and not less than annually. For the purpose of providing advice, it shall:

(1) Consider issues about DeCA operations, services, and resources and make recommendations about DeCA practices, problems, policies, and programs.

(2) Facilitate the exchange of information among the Director, DeCA, and the Military Departments.

(3) Make recommendations on the integration and prioritization of the commissary construction program.

(4) Perform such other advisory functions as ASD(P&L) may direct.

(c) The Assistant Secretary of Defense (Production and Logistics) (ASD(P&L)) shall:

(1) Recommend to the Secretary and the Deputy Secretary of Defense and the USD(A) policies and resources for the administration of the DeCA and its programs.

(2) Provide policy guidance and management direction to the Director, DeCA.

(3) Establish standards and issue guidelines for military commissary operations, including, but not limited to, the following areas:

(i) Funding.

(ii) Commissary establishment/dis-establishment.

(iii) Pricing and surcharges.

(iv) Categories of items.

(v) Reporting requirements and preparation of "The DoD Commissary Operations Report" (RCS DD-FMP(A)1187).

(4) In coordination with CJCS, make arrangements for Commanders of Unified Commands to assume temporary operational control of commissaries in wartime or periods of heightened alert.

(d) The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) shall be responsible for advising the ASD(P&L) on commissary policy to ensure that it is consistent with policies on recruitment and retention.

(e) The Comptroller of the Department of Defense (C, DoD) shall advise the ASD(P&L) on accounting, budgeting, funding, cash management, debt management, and pricing and surcharge policy for the DeCA.

(f) The Secretaries of the Military Departments shall provide such facilities, physical security, logistics, and administrative support as required for effective operation of the military commissary program as agreed to by the DeCA and cognizant component Commands under inter-Service support and servicing agreements.

§ 383a.6 Relationships.

(a) In the performance of assigned responsibilities and functions, the Director, DeCA, shall:

(1) Have free and direct access to, and communicate with, the DoD Components and other Executive Departments and Agencies concerning commissary activities, as necessary.

(2) Maintain appropriate liaison with other DoD Components, Agencies of the Executive branch, forcing governments, and private sector organizations for the exchange of information on programs and activities in the field of assigned responsibilities.

(3) Use established facilities and services of the Department of Defense and other Federal Agencies, whenever practicable, to avoid duplication and to achieve an appropriate balance of modernization, efficiency, economy, and customer support.

(4) Consult and coordinate with other governmental and nongovernmental agencies on matters related to the mission assigned to the DeCA.

(b) The Secretaries of the Military Departments and Heads of other DoD Components shall:

(1) Provide assistance to the Director, DeCA, in carrying out the responsibilities and functions relating to military commissaries.

(2) Coordinate with the Director, DeCA, on programs and activities that include or are related to military commissaries.

§ 383a.7 Authority.

The Director, DeCA is hereby delegated authority to:

(a) Enter into and administer contracts, directly or through a Military Department, a DoD contract administration services component, or other Government Department or Agency, in accordance with applicable laws, DoD regulations, the FAR and the DFARS for supplies, equipment, and services required to accomplish the mission of the DeCA.

(b) Prescribe procedures, standards, and practices for the Department of Defense governing the execution of assigned responsibilities and functions.

(c) Enter into agreements with the Military Departments or other Government entities, as required for the effective

performance of the military commissary program.

(d) Obtain reports, information, advice, and assistance from other DoD Components consistent with the policies and criteria of DoD Directive 7750.5¹, as may be necessary for the performance of assigned functions and responsibilities.

(e) Establish new DeCA facilities or use existing facilities of the Military Departments, as deemed necessary, for improved effectiveness and economy.

(f) Exercise the operational and administrative authorities contained in the appendix to this part.

§ 383a.8 Administration.

(a) The Director and Deputy Director(s) of the DeCA shall be appointed by the Secretary of Defense.

(b) The DeCA shall be authorized such personnel, facilities, funds, and other administrative support as the Secretary of Defense deems necessary.

(c) The Military Departments shall assign military personnel to the DeCA in accordance with approved authorizations and procedures for assignment to joint duty.

(d) Programming, budgeting, funding, procuring, auditing, accounting, pricing, and reporting activities of the DeCA shall be in accordance with established DoD policies and procedures.

(e) Appropriated funds shall be used to finance the operating costs of the DeCA with the exception of operating costs authorized for payment from trust revolving funds. A stock fund will be used to finance all inventories procured for resale.

APPENDIX TO PART 383a—DELEGATIONS OF AUTHORITY

Pursuant to the authority vested in the Secretary of Defense, and subject to the direction, authority, and control of the Secretary of Defense, and in accordance with DoD policies, Directives, and Instructions, the Director, DeCA is hereby delegated authority as required in the administration and operation of the DeCA to:

1. Establish advisory committees and employ part-time advisers, as approved by the Secretary of Defense, for the performance of

¹Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

DeCA functions pursuant to 10 U.S.C. 173 Public Law 92-463, "Federal Advisory Committee Act"; and DoD Directive 5105.4¹ "Department of Defense Federal Advisory Committee Management Program," September 5, 1989.

2. Designate any position in the DeCA as a "sensitive" position, in accordance with 5 U.S.C. 7532; Executive Orders 10450, 12333, and 12356; and DoD Directive 5200.2², "DoD Personnel Security Program," December 20, 1979, as appropriate.

3. Authorize and approve overtime work for DeCA civilian personnel in accordance with 5 U.S.C. chapter 55, subchapter V, and applicable OPM regulations.

4. Authorize and approve:

a. Travel of DeCA civilian personnel in accordance with Joint Travel Regulations, Volume 2, "DoD Civilian Personnel."

b. Temporary duty travel for military personnel assigned or detailed to the DeCA in accordance with Joint Federal Travel Regulations, Volume 1, "Uniformed Service Members."

c. Invitational travel to persons serving without compensation whose consultative, advisory, or other highly specialized technical services are required in a capacity that is directly related to or in connection with, DeCA activities, pursuant to 5 U.S.C. 5703.

5. Approve the expenditure of funds available for travel by military personnel assigned or detailed to the DeCA for expenses regarding attendance at meetings of technical, scientific, professional, or other similar organizations in such instances when the approval of the Secretary of Defense, or designee, is required by law (37 U.S.C. 412 and 5 U.S.C. 4110 and 4111). This authority cannot be redelegated.

6. Develop, establish, and maintain in active and continuing Records Management Program, pursuant to 44 U.S.C. 3102 and DoD Directive 5015.2³, "Records Management Program," September 17, 1980.

7. Establish and use imprest funds for making small purchases of material and services, other than personal services, for the DeCA when it is determined more advantageous and consistent with the best interests of the Government, in accordance with DoD Directive 7360.104⁴, "Disbursing Policies," January 17, 1989.

8. Authorize the publication of advertisements, notices, or proposals in newspapers,

magazines, or other public periodicals, as required for the effective administration and operation of the DeCA, consistent with 44 U.S.C. 3702.

9. Establish and maintain appropriate property accounts for the DeCA and appoint Boards of Survey, approve reports of survey, relieve personal liability, and drop accountability for DeCA property contained in the authorized property accounts that has been lost, damaged, stolen, destroyed, or otherwise rendered unserviceable, in accordance with applicable laws and regulations.

10. Promulgate the necessary security regulations for the protection of property and places under the jurisdiction of the Director, DeCA, pursuant to DoD Directive 5200.8⁵, "Security of Military Installations and Resources," July 29, 1980.

11. Establish and maintain, for the functions assigned, a publications system for the promulgation of common supply and service regulations, instructions, and reference documents, and changes thereto, pursuant to the policies and procedures prescribed in DoD 5025.1-M⁶ "Department of Defense Directives System Procedures," April 1981.

12. Enter into support and service agreements with the Military Departments, other DoD Components, Government Agencies, and foreign governments, as required for the effective performance of DeCA functions and responsibilities.

13. Lease property under the control of the DeCA, under terms that will promote the national defense or that will be in the public interest, pursuant to 10 U.S.C. 2667.

14. Exercise the powers vested in the Secretary of Defense by 5 U.S.C. 301, 302(b), 3101, and 5107 on the employment, direction, and general administration of DeCA civilian personnel.

15. Fix rates of pay of wage-rate employees exempted from the Classification Act of 1949 by 5 U.S.C. 5102 on the basis of rates established under the Combined Federal Wage System. In fixing such rates, the Director, DeCA, shall follow the wage schedule established by the DoD Wage Fixing Authority.

16. Administer oaths of office to those entering the Executive branch of the Federal Government or any other oath required by law in connection with employment therein, in accordance with 5 U.S.C. 2903, and designate in writing, as may be necessary, officers and employees of the DeCA to perform this function.

17. Establish a DeCA Incentive Awards Board, and pay cash awards to, and incur

¹Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

²See footnote 1 to paragraph 1 of this appendix.

³See footnote 1 to paragraph 1 of this appendix.

⁴See footnote 1 to paragraph 1 of this appendix.

⁵See footnote 1 to paragraph 1 of this appendix.

⁶See footnote 1 to paragraph 1 of this appendix.

necessary expenses for the honorary recognition of, civilian employees of the Government whose suggestions, inventions, superior accomplishments, or other personal efforts, including special acts or services, benefit or affect the DeCA, in accordance with 5 U.S.C. 4503, OPM regulations, and DoD Directive 5120.15⁷, “Authority for Approval of Cash Honorary Awards for DoD Personnel,” August 13, 1985.

18. Maintain an official seal and attest to the authenticity of official DeCA records under that seal.

The Director, DeCA may redelegate these authorities as appropriate, and in writing, except as otherwise specifically indicated above or as otherwise provided by law or regulation.

PART 395—DEFENSE LEGAL SERVICES AGENCY

Sec.

395.1 Purpose.

395.2 Definition.

395.3 Organization and management.

395.4 Functions and responsibilities.

395.5 Relationships.

395.6 Authorities.

APPENDIX TO PART 395—DELEGATIONS OF AUTHORITY

AUTHORITY: 10 U.S.C. 133.

SOURCE: 55 FR 2808, Jan. 29, 1990, unless otherwise noted.

§ 395.1 Purpose.

This part, pursuant to the authority vested in the Secretary of Defense under title 10, United States Code, updates the Defense Legal Services Agency (DLSA) charter with functions, responsibilities, relationships, and authorities as outlined herein.

§ 395.2 Definition.

DoD Components. The Office of the Secretary of Defense (OSD), the Military Departments, the Joint Chiefs of Staff (JCS), the Joint Staff, the Unified and Specified Commands, the Inspector General of the Department of Defense (IG, DoD), the Defense Agencies, and the DoD Field Activities.

§ 395.3 Organization and management.

(a) The DLSA is established as a separate agency of the Department of Defense under the direction, authority,

⁷See footnote 1 to paragraph 1 of this appendix.

and control of the General Counsel of the Department of Defense (GC, DoD). It shall consist of a Director and such subordinate organizational elements as are established by the Director within resources assigned by the Secretary of Defense. It shall include the legal staffs assigned to the Defense Agencies and DoD Field Activities.

(b) Budgeting, management of ceiling spaces, personnel services, and other administrative support for DLSA personnel shall be the responsibility of the Defense Agency or Field Activity to which those personnel are assigned.

(c) The GC, DoD, shall serve as the Director, DLSA.

§ 395.4 Functions and responsibilities.

The *Director, Defense Legal Services Agency* (DLSA), shall:

(a) Organize, direct, and manage the DLSA and all resources assigned to the DLSA.

(b) Provide legal advice and services for the Defense Agencies, DoD Field Activities, and other assigned organizations.

(c) Provide technical support and assistance for development of the DoD Legislative Program.

(d) Coordinate DoD positions on legislation and Presidential Executive orders.

(e) Provide a centralized legislative document reference and distribution point for the Department of Defense, and maintain the Department's historical legislative files.

(f) Develop DoD policy for standards of conduct and administer the Standards of Conduct Program for the OSD and other assigned organizations.

(g) Administer the Defense Industrial Security Clearance Review Program.

(h) Perform such other duties as the Secretary or Deputy Secretary of Defense may prescribe.

§ 395.5 Relationships.

(a) In performance of assigned responsibilities and functions, the Director, DLSA, shall:

(1) Coordinate actions and exchange information with other DoD organizations having collateral or related functions.

(2) Promote coordination, cooperation, and mutual understanding of